

Remarks

Status of the Claims

The Office rejected Claims 1-9, 12-13, 15-16, and 19-20 under 35 U.S.C. 103(a) as unpatentable over U.S. Patent 6,345,611 (*Hartman*) in view of 4,086,892 (*Marsee*).

The Office objected to Claims 10, 11, and 14 as depending from a rejected base claims, but indicated that they were otherwise allowable.

The Office allowed Claims 17 and 18.

Claims 10 and 11

Applicant has rewritten allowable Claims 10 and 11 in independent form, in each case including all the limitations of the base and any intervening claims. Applicant submits that Claims 10 and 11 are in condition for allowance.

New Claims 21-24

New Claims 21-24 depend from and further define the inventions of allowable Claims 10 and 11, adding limitations in original Claims 3 and 12. Applicant submits that new Claims 21-24 are in condition for allowance.

Claims 1, 2-5, 8-9, 12-13, and 15-16 as amended

Applicant has amended Claims 1-9, 12-13, 15-16 to more explicitly recite the structure argued in the previous response (roughly the same as the structure of original Claim 7). Specifically, amended Claim 1 and amended Claim 15 explicitly recite a reservoir for pre-heating gas before it encounters a pressure regulator, a regulator, a reservoir for post-heating the gas after the pressure regulator, and an exhaust channel that encourages both reservoirs to a uniform temperature.

Applicant maintains that the amended wording makes it explicit that the two reservoirs are not mere duplication or rearrangement of parts. The pre-heat reservoir heats gas **before** pressure regulation; the post-heat reservoir heats gas **after** pressure regulation. Accordingly, the two reservoirs provide different functions in the claimed structure; they are not mere duplicates. While Applicant's Specification acknowledges that any gas heating can be beneficial (either one or two reservoirs), the structure claimed in amended Claim 1 has additional benefits, also taught in Applicant's Specification. See, e.g., pars [0005] and [0011] ("The gas in the two reservoirs can thereby be heated and be urged toward a uniform temperature, reducing the problems associated with condensation, freezing and the likelihood of freezing at the pressure differentials about the pressure regulator."); par [0015] ("the gas in the reservoirs is encouraged to operating temperatures that are substantially the same."). The use of pre-heat and post-heat reservoirs allows a single exhaust channel to encourage uniform gas temperature on input and output sides of the pressure regulator.

Further, any rearrangement of the reservoirs and pressure regulator would modify the operation of the device by eliminating either the pre-heat or post-heat functions. *In re Japiske*, cited by the Office, concerned a case where rearrangement of the location of a starting switch did not change the operation of a hydraulic power press. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) (Claims to a hydraulic power press which read on the prior art except with regard to the position of the starting switch were held unpatentable **because** shifting the position of the starting switch **would not have modified the operation of the device**.). The facts of the subject claims, in which rearrangement of the reservoirs and pressure regulator would modify the operation of the device, are not sufficiently close to *In re Japiske* to apply the rationale to the subject claims. MPEP 2144.04 ("if the facts in a prior legal decision are **sufficiently similar** to those in an application under examination, the examiner may use the rationale used by the court.").

Further, a *prima facie* case of obviousness requires that the art teach or suggest all the limitations of the claim. The art does not teach or suggest a pre-heat reservoir, or any desirability of heating gas before regulation, and does not teach or suggest any exhaust channel that encourages uniform temperature across pre-heat and post-heat reservoirs. Accordingly, there is no *prima facie* case of obviousness of Claims 1, 2-5, 8-9, 12-13, and 15-16. Applicant submits that amended Claim 1, and Claims 2-5, 8-9, 12-13, and 16 depending therefrom, and Claim 15 are in condition for allowance.